IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.2028 OF 1996

1. M/s.Phakt Overseas,
a partnership firm having
their office at 7, Dollars
Avenue, Shimpoli Road,
Borivali (West),Mumbai 400 092.

2. Mr.Virendra Thakkar,
of Bombay, Indian Inhabitant,
partner of petitioner No.1.,
residing at 202, Ramashankar
Co-op.Hsg.Scy.Ltd.Opp.Khimji
Apartment, Khorkar Ali,
Thane 400 601. Petitioners

vs.

1. The Union of India,

2. The Commissioner of Customs
(Judicial) New Custom House,
Ballard Estate, Bombay 400 038.

3. The Additional Commissioner
of Customs, Group VII, New
Custom House, Ballard Estate,
Bombay 400 038.

4. The Assistant Commissioner
of Customs, Group VII, New
Custom House, Ballard Estate,
Bombay 400 038.

5. The Board of Trustees
of the Mumbai Port Trust,
Mumbai, a statutory body
constituted under the
Major Port Trusts Act, 1963
having its office at Vijay
Deep, Shoorji Valabhdas
Marg, Ballard Estate,
Mumbai 400 038. Respondents

Mr.S.N.Panda i/b.Mr.H.R.Shetty for the petitioners.

Mr.Y.R. Mishra with Mr.P.S.Jetley i/b.Mr.S.Bhattacharya for the respondents 1 to 4.

Mr.U.J.Makhija i/b.M/s.Mulla & Mulla for the respondent no.5.

CORAM : R. M. LODHA &
J. P. DEVADHAR,JJ.

DATED : 28th April, 2006

ORAL JUDGMENT (Per R.M.Lodha,J.)

We are informed by Mr.P.B.Vaishnav, Assistant Commissioner of Customs, Group VII, New Custom House, Mumbai that the petitioners have now revalidated the Bank Guarantee No.BG/0/148 dated 25th April, 2006 valid upto 15th April, 2007 for the sum of Rs.1,80,543/- issued by Saraswat Co-operative Bank Ltd., Fort Branch. The zerox copy of the Bank Guarantee dated 26th April, 2006 sent by the advocate for the petitioners is taken on record and marked "X" for identification purposes.

2. In view thereof, we dispense with the personal presence of Mr.P.B.Vaishnav, Assistant Commissioner of Customs, Group VII.

3. We heard Mr.S.N.Panda, advocate for the petitioners and Mr.Y.R.Mishra, advocate for the revenue.

4. The petitioners, by means of this writ petition, have principally prayed that the respondents 2 to 5 be

directed to allow the petitioners to clear their goods imported vide Bill of Entry No.1419/62 dated 3.6.1996 and issue detention certificate for the entire period of detention.

5. By the interim order dated 24th October, 1996, this Court directed the concerned respndents to allow the clearance of the petitioners' goods subject to their furnishing the Bank Guarantee to the extent of 100% of the differential duty. The goods were, thus, got cleared on furnishing the Bank Guarantee. The Bank Guarantee, as observed above, has now been revalidated upto 15th April, 2007.

6. Taking overall facts and circumstances into consideration, we are of the view that it would be in the fitness of things if the Assessing Officer completes the adjudication under Section 17 of the Customs Act, 1962 expeditiously and the petitioner cooperates with the Assessing Officer in that regard. The goods have already cleared, as noticed above.

7. Accordingly, we dispose of the writ petition by the following order:

(i) The respondent no.4 shall complete the adjudication proceedings under Section

17 of the Customs Act, 1962 as expeditiously as possible and in no case later than six months from today.

(ii) Until adjudication proceedings are over and for a period of one month therefrom, the Bank Guarantee furnished by the petitioners shall be kept alive.

No costs.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)